

March 14, 2022

Memo for Clean Water and Natural Land Commission

Subject: Work Summary for CWNL Permitted Interactive group (PIG) meeting in 2021-22.

Task: develop the concept that the Charter be amended so that the council could approve expenditures from the Clean Water and Natural Lands Fund beyond Charter-stated "...to purchase or otherwise acquire real estate or any interest therein for land conservation in the city..."

Summary of activity: PIG met numerous times and consulted with Big Island's analogous staff. City DPR, Trust for Public Land (Hawaii), and Hawaii Land Trust participated and gave testimony and suggestions.

PIG work product:

The group recommends that the Commission look at three alternatives, discuss their pros and cons, listen to public testimony and decide whether one of them should be forwarded for Charter-change consideration.

Here are the words of the current Charter regarding expense from the Clean Water and Natural Land Fund:

Section 9-204. Clean Water and Natural Lands Fund and Affordable Housing Fund

2. Moneys in the Clean Water and Natural Lands Fund shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the city...

It is notable that the state and the other three counties all allow expenditures from their analogous funds for other phases of land conservation. Honolulu is the only county restricting to its fund to solely "...purchase or otherwise acquire real estate or any interest therein...". Extracts from the state and other counties are appended for Commission review.

And here are three alternatives that would allow expenditure for other phases of land conservation.

- I. 2. Moneys in the Clean Water and Natural Lands Fund shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes: protection of watershed lands to preserve water quality and water supply; preservation of forests, beaches, coastal areas, and agricultural lands; public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space. Monies in the Fund may also be used for any initial infrastructure, environmental remediation, or other improvement to render said real estate ready for public access and use; expenditures for said uses of monies in the Fund shall be limited to six percent of the money deposited into the Clean Water and Natural Lands Fund in the previous year.

- II. 2. Moneys in the Clean Water and Natural Lands Fund shall be used (a) for due diligence to determine feasibility of acquiring real estate or any interest therein for land conservation in the city; (b) to purchase or otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes: protection of watershed lands to preserve water quality and water supply; preservation of forests, beaches, coastal areas and agricultural lands; public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land in order to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space; and (c) for environmental mitigation, environmental remediation, operation, maintenance and management of the real estate acquired with monies in the Clean Water and Natural Lands Fund, which monies shall be limited to

Six percent of the money deposited into the Clean Water Natural Lands Fund in the previous year.

- III. 3. Six percent of the money deposited into the Clean Water Natural Lands Fund in the previous year (six percent of the one-half percent of real property tax revenue deposited in the Clean Water Natural Land Fund the previous year in Section 1 above) may be used for initial infrastructure improvements on and management of real property and conservation easements acquired through the Clean Water Natural Lands Fund, pursuant to community-based management plans.

(a) Initial infrastructure improvements include but are not limited to: repair or building of existing buildings or structures that support management or public access, storage structures, bathroom facilities, signs, fencing, gates or access, trails or paths; flood mitigation; wildfire and fire prevention; and Americans with Disabilities Act compliance.

(b) Management includes, but is not limited to: maintenance, stewardship, preservation, conservation, and/or restoration of cultural, natural, agricultural, aquacultural, watershed, forests, mountains, beaches, coastal, habitat, ecosystem, recreational, educational, and/or open space resources on the real property; land management and stewardship grounded in Native Hawaiian practices; cultural, archaeological or biological surveys; and staffing to support any of the aforementioned activities; and community based management planning.

(c) A single project or land area shall not use all of the money set aside for initial infrastructure improvements and management in any given year.

(d) The city shall disburse at least half of the management and initial infrastructure funds through an open and transparent public grant application process. Applicants shall be limited to 501(c)3 tax-exempt non-profit organizations and community groups. The city may use up to half of the infrastructure and management funds to support management of lands acquired with Clean Water and Natural Lands Funds by the City's Department of Parks and Recreation.

~~[3.]~~ 4. Moneys in the Affordable Housing Fund shall be used to provide affordable rental housing for persons earning sixty percent or less of the median household income in the city for the following purposes: provision and expansion of affordable rental housing and suitable living environments in projects, which may include mixed-use, mixed-income projects, having residential units that are principally for persons of low and moderate income through land acquisition for, development of, construction of, and/or capital improvements or rehabilitation to such housing, provided that the funded housing remains affordable for at least sixty years.

~~[4.]~~ 5. The moneys in each fund may also be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued subsequent to enactment of this section and pursuant to Sections 3-116 or 3-117, in whole or in part, for the purposes enumerated in subsections 2 and 3 of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

~~[5.]~~ 6. At any given time, no more than five percent of the moneys in each fund shall be used for administrative expenses.

~~[6.]~~ 7. Any balance remaining in each fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in each fund shall not be used for any purposes except those listed in this section.

~~[7.]~~ 8. The department of budget and fiscal services shall receive proposals for the use of funds in the Clean Water and Natural Lands Fund and shall submit qualified proposals to an advisory commission, which shall make recommendations to the council for approval. All proposals for uses of the Clean Water and Natural Lands Fund shall be processed consistent with this procedure.

~~[8.]~~ 9. There shall be established a Clean Water and Natural Lands advisory commission to consider proposals submitted to it by the department of budget and fiscal services and to submit recommendations to the council for approval of expenditures under this section. The commission shall consist of seven members, with three appointed by the mayor, three appointed by the council, and one appointed by a majority vote of the six appointed members.

The members shall serve for staggered terms of five years and until their successors have been appointed and qualified. The initial appointments shall commence no later than January 15, 2017, and shall be as follows:

(a) For an initial two-year term, two members, one each appointed by the mayor and the council.

(c) For an initial three-year term, two members, one each appointed by the mayor and the council.

(d) For an initial four-year term, two members, one each appointed by the mayor and the council.

(e) For a five-year term, the member appointed by the majority vote of the other six appointed members

~~[9.]~~ 10. The director of the department of budget and fiscal services shall administer the fund.

~~[10.]~~ 11. The council shall by ordinance establish other procedures for the administration and expenditure of moneys in each fund consistent with this section. The appropriations to each fund shall not substitute for, but shall be in addition to, those appropriations historically made for the purposes stated in this section.